

Summary of International Scanning Program For Right of Way and Utilities March 13 – 25, 2000

The Right of Way and Utilities International Scanning Tour was jointly sponsored by the Federal Highway Administration (FHWA), the Transportation Research Board (TRB), and the American Association of State Highway and Transportation Officials (AASHTO).

BACKGROUND

Highway right of way acquisition and utilities accommodation in the United States have become significantly more complex during the last 20 years. At the same time, right of way and utilities personnel are under increasing pressure to provide cleared right of way more quickly. Included in FHWA's National Strategic Plan are goals to enhance communities through highway transportation projects by using innovative acquisition of right of way, sensitive and effective relocation of affected residences and businesses, and relocation and accommodation of utilities with minimal impact and disruption to the communities.

As part of AASHTO's Strategic Plan assignment, the AASHTO Right of Way and Utilities Subcommittee recently completed a nationwide review of processes and procedures to identify best practices in the United States. This study outlined process improvements in the following areas:

- ?? Right of way and utilities involvement in project development
- ?? Property appraisal and appraisal review
- ?? Acquisition of total property rights, easements, and permits
- ?? Relocation assistance to owners, tenants, businesses, and farm operations
- ?? Utilities coordination, adjustments, and relocations for highway projects
- ?? Management practices for effective right of way and utilities operations
- ?? Training programs and mentoring procedures for staff development

The dissemination and potential adoption of European right of way and utilities techniques and best practices will add to this knowledge base, enhance the ability of state and local agencies to streamline delivery, and improve the quality of right of way services.

OBJECTIVES, GOALS, AND PANEL COMPOSITION

The objective of this scanning tour was to review and document procedures and best practices in several European countries for the major functional work areas involved in highway right of way and utilities processes. Norway, Germany, the Netherlands, and the United Kingdom

were identified as countries where right of way issues and solutions in both urban and rural areas would relate to issues in the United States.

The Federal Highway Administration (FHWA), the Transportation Research Board (TRB), and the American Association of State Highway and Transportation Officials (AASHTO) jointly sponsored the scanning tour. FHWA's International Technology Scanning Program assembled the U.S. delegation. The delegation included members representing state departments of transportation in Maine, Michigan, Virginia, and Washington State; FHWA; and the private sector, including representatives from the International Right of Way Association (IRWA) and O. R. Colan Associates, Inc. These panel members offered expertise in many right of way and utilities activities, including project development, appraisal and appraisal review, acquisition, property management, condemnation, relocation, and utilities coordination and accommodation.

The U.S. delegation's goal was to identify practices in the selected countries that, when implemented in the United States, will help ensure timely procurement and clearance of highway right of way and adjustment of utilities.

GENERAL CONCLUSIONS

The hosting countries shared many interesting right of way and utilities practices utilized by their transportation agencies. A summary of the techniques and practices the U.S. delegation found most significant follows.

Appraisal and Acquisition

The countries visited have an underlying philosophy of sensitivity to the needs of the property owner. In some cases, this philosophy replaces the need to have prescriptive regulations on how to conduct appraisal, acquisition, and relocation procedures.

To provide for more property owner input, these countries encourage property owner involvement before completion of the final right of way plans and use an extensive property owner interview process.

They make a conscientious effort to limit the number of people contacting the property owner, which includes allowing one person to serve as appraiser and negotiator for acquisition and relocation services.

By limiting the need for appraisal reviews and through the passage of special enabling legislation to streamline the acquisition process, they reduce the time needed to provide offers to property owners.

The use of mediation and quick payment processes facilitates settlements and payments to property owners. These actions underscore the desire of the highway agencies in these countries

to provide a fair and equitable method for acquiring right of way.

Compensation and Relocation

All of the hosting countries have a framework for compensation similar to that used in the United States. In many cases, however, the compensation includes elements that are not always compensable in the United States.

The land consolidation concept involves adjusting property boundaries in the area of a highway project and redistributing the land to the affected landowners. Lands that are for sale adjacent to the project can also be acquired and reassembled with properties divided by the project. The idea is to create better parcels for continued agricultural use or more desirable parcels for development. In Norway, one property owner affected by the project can request an investigation into land consolidation. In other countries it requires a consensus of landowners to begin the land consolidation process.

All of the countries visited provide liberal payments to businesses that are impacted by property acquisition, project construction, or highway operations. These payments range from liquidation/acquisition of businesses to the reimbursement of all legitimate moving/relocation costs and incidental expenses incurred by the displaced businesses.

In several countries, the programs for relocation payments and services are less structured than in the United States. Their programs are premised on the concept of reimbursing those costs that result from displacement.

Training

All four countries place great emphasis on formal training and continuous employee development. Programs focus on college curriculums leading to a degree in right of way and internal training courses, including small workshops and mentoring.

Utilities

The hosting countries have many interesting practices to relocate and accommodate utilities located on or near highway right of way. Most of the countries are making special efforts to enhance relationships between highway and utilities officials by improving coordination, cooperation, and communication.

All utilities in the Netherlands, except high-voltage transmission lines, and most utilities in the other countries have been placed underground. This has greatly improved roadside safety and beautified the surroundings.

Utility corridors have been established in several countries for crossings, and in some cases for longitudinal installations. These corridors include empty conduit for future installations and joint trenching.

In some countries, highway contractors install conduit and perform other work for the utilities.

Through design measures, Germany tries to avoid the need to relocate utilities in conjunction with highway construction projects.

Utilities are recognized as a mode of transportation in the Netherlands, joining highway, air, water, and rail transportation.

Utilities are included as essential components of design-build contracts in the United Kingdom.

In several countries, jurisdiction-wide master agreements with each utility company are used to avoid having to deal with utility agreements on every project.

Other interesting utilities practices, include: cost sharing; acquiring right of way for utilities; damage prevention activities; protected highway designation; minimizing pavement cuts; using GIS (Geographic Information Systems); and accommodating fiber optics and wireless communications.

Project Development

Several of the countries have adopted the project management approach to project development, including the use of multidisciplinary teams. Practices include right of way participation beginning at the planning stage, budget and schedule commitments with a sign-off by functional representatives and project managers, and accountability for delivery on those commitments.

England uses design-build practices extensively in its program. Although presently right of way acquisition remains with the highway agency, the potential for delegating some or all acquisition activities to the design-build contractor merits evaluation.

Each of the countries has an extensive planning process that includes significant input from affected property owners, community members, and local authorities. In several countries, zoning and land use plans prepared at the local or regional level govern decisions about the location of the transportation infrastructure.

Typically, during the planning process, the European countries very specifically define the problems to be addressed by the project and describe how the project will achieve the intended results. Several countries also perform broad feasibility reviews prior to acquisition.

Land consolidation allows several of the European countries to consolidate parcel ownerships to minimize negative effects of a new alignment or significant widening.

The delegation found it significant that all of the countries budget sufficient time and funding to their projects to allow appropriately timed and scoped acquisitions and relocations.

All of the countries appeared to engage in more extensive public coordination than is typical in the United States. Two particularly useful practices are:

- 1) Field reviews by the project manager or designer, along with the right of way team member, to meet with affected property owners early in the development of the project.
- 2) Encouraging owner participation in design issues at early stages of project development.

Each of the countries has a method for facilitating early possession or acquisition. These methods, including advance payment and right of entry, provide a great deal of flexibility.

The right of way plans used by several countries are cleaner and easier to interpret than plans of many jurisdictions in the United States.

Each country is developing a system for managing data relevant to right of way functions. In addition to project file data management, several use an integrated GIS mapping and data system for tracking all land use, including right of way.

Some countries also establish standard right of way acquisition limits, such as minimums of one meter from the backslope of the ditch and three meters from the edge of pavement.

RECOMMENDATIONS AND IMPLEMENTATION STRATEGIES

The host countries provided the U.S. delegation with a wealth of information on their right of way and utilities practices. The delegation met on the final day of the tour to review their findings. At that meeting, they developed the following list of practices they feel have potential for implementation in the United States to help ensure timely procurement and clearance of highway right of way and adjustment of utilities.

Appraisal and Acquisition

Early Involvement of Property Owners in the Design Process: Encourage states to consult affected property owners in advance of the completion of project design to assess the impact of the proposed design and to determine if a design revision is warranted. Appropriate use of this practice will result in more timely purchases and reduce damages to properties.

Property Owner Interviews: Encourage states to use a more extensive interview process to discuss the impact of the project with property owners and get an understanding of how property owners use their property. The information obtained will be used to draft the appraisal problem and to determine if further investigation of possible damages is necessary.

Limited Use of Appraisal Reviews: In conjunction with FHWA, develop a pilot risk management-based appraisal review system in several states. The results will be the basis for applicable regulatory changes to adopt a risk management-based appraisal review system similar to those used in some of the European countries. The goal is to determine whether such a system (for instance, auditing a sample, reviewing all complex appraisals, or setting review thresholds) can protect the quality and integrity of the valuation process while saving overall project time and costs.

Appraisal and Negotiation Functions Performed by the Same Person: Conduct a pilot program allowing several states to use the same agent to conduct both the appraisal and acquisition functions on a parcel.

Compensation and Relocation

Voluntary Land Consolidation Pilot Program: Research the ability of states to accomplish voluntary land consolidation and implement a pilot program to evaluate the benefits.

Business Reestablishment and Relocation: Evaluate items eligible for business reestablishment and relocation reimbursement in the Netherlands and the United Kingdom. Include these in the *Business Payments and Services* research contract currently being developed. This contract will be the primary basis for the decision to recommend a change in the federal Uniform Act.

Training

Pre-Employment and Employee Education and Training: Encourage the establishment of a pre-employment and employee education and training program. Explore the potential for recruiting one or more colleges to provide this service, to include a college degree program for right of way careers and a continuing education program using distance learning techniques. This proposal expands upon the possible establishment by the federal government of an academy for real estate services.

Establish a panel comprised of representatives from FHWA, IRWA, AASHTO, and a private consultant to pursue this training concept. FHWA will act as the lead to contact colleges and on-line learning centers, with the goal of developing and implementing such a curriculum by the fall of 2002.

Mentoring Methods: Evaluate current mentoring activities in each state through AASHTO's Internet connection. Summarize mentoring methods in the United States and Europe and recommend adoption to the states.

Utilities

Institute Pilot Projects: The team recommends pilot projects in the following areas:

Pilot Project	Responsible Agency
Investigate techniques to avoid the need to relocate utilities.	FHWA
Investigate the feasibility of highway contractors installing utilities.	DOT to be determined
Evaluate the feasibility of recognizing utilities as a mode of transportation whereby pipelines will replace trucks to transport materials.	Maine DOT
Investigate the feasibility of mapping utilities, using GIS and other innovative techniques.	Montana DOT
Investigate the feasibility of paying preliminary engineering costs up front in exchange for an agreement from the utilities to get the work done in a timely manner.	Virginia DOT

Encourage Incorporation of Various Utilities Accommodation Techniques: FHWA and the AASHTO Subcommittee for Right of Way and Utilities will encourage state departments of transportation and utility companies to:

- ?? Work together more effectively;
- ?? Establish utility corridors and systematically locate facilities;
- ?? Include utilities in design-build contracts; and
- ?? Utilize master agreements.

Compensate Utilities Up-Front: Investigate the feasibility of compensating utilities up-front for eligible preliminary engineering work necessitated by proposed highway construction projects.

Project Development

Incorporate Right of Way and Utilities Functions in the Design-Build Process: Support the FHWA and AASHTO efforts to examine the feasibility of incorporating right of way functions, as well as utilities, into the design-build process. Encourage state right of way and utilities personnel to study the benefits of design-build and the advantages this concept brings, including shortening the project development process by eliminating many of the procedural procurement processes.

Corridor Preservation: Initiate a work group through FHWA to: 1) Reevaluate methods for corridor preservation using the *1990 Report of the AASHTO Task Force on Corridor Preservation* as a starting point; and 2) Create one or more pilot projects to test corridor preservation and land consolidation techniques. This should be a joint effort with AASHTO subcommittees responsible for statewide transportation planning, land use and environment, and right of way.

Rights of Entry and Early Acquisition Methods: Evaluate the methods used in various countries for rights of entry and early acquisition to facilitate early entry onto property for project construction. FHWA and the states should consider expanding these methods by using risk management concepts, while ensuring that property owner rights are protected.

Establish an Information Clearinghouse on Right of Way and Utilities Databases: Encourage the AASHTO Right of Way and Utilities Subcommittee to establish an information clearinghouse on right of way and utilities databases, including GIS, for project development, tracking, and management.

DISSEMINATION OF FINDINGS, RECOMMENDATIONS, AND IMPLEMENTATION STRATEGIES

The Right of Way and Utilities Scanning Tour final report will contain further discussion and information on the recommendations and implementation strategies. The U.S. delegation will share their findings and recommendations with their various constituencies through distribution of the final report, published articles, and presentations at various national and state right of way meetings and conferences. The delegation will present their findings initially at the AASHTO Right of Way and Utilities Subcommittee meeting to be held May 7 - 11, 2000, in Savannah, Georgia. Other avenues for dissemination include articles in *Right of Way*, the IRWA's bimonthly magazine, the IRWA annual meeting in June 2000, right of way workshops sponsored by the states within the structure of the former FHWA regions, and through the FHWA Office of Real Estate Services.